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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,054	09/26/2003	Kirby Clark	1115622-0004	7186

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

LECHERT JR, STEPHEN J

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

11/11

Office Action Summary

Application No.

10/672,054

Applicant(s)

CLARK ET AL

Examiner

Stephen J. Lechert Jr.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

- 1. Claims 10-12 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 9. See MPEP § 608.01(n). Accordingly, the claims 10-12 not been further treated on the merits.**
- 2. Action on the merits of claims 1-9 follows:**
- 3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the preamble of the claim applicant recites a method for cold compaction molding, in the body of the claim applicant recites "compacting" which is broader than "cold compaction". In claim 5, applicant recites a temperature of 0-120°C which delineates that the compaction is cold. Furthermore, when applicant corrects the improper multiply dependent claims, e.g. claims 10-12 recite "cold compaction" which will present an antecedence problem. In order to obviate this rejection applicant is suggested to recite cold compacting in the body of claim 1.**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1, 2, 5-6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue.

Inoue teaches a method of cold compacting a polyethylene resin with an oxide. The reference teaches cold compacting a resin and an inorganic acid scavenger. The inorganic acid scavenger is a metal oxide or silicate in Inoue the metal oxide acid scavenger is ferric or ferrous oxide. [See Column 2, line 19, 26 and 44; Column 5, line 51; note Claim 16] Inoue fully anticipates applicant's method as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.**
- 2. Ascertaining the differences between the prior art and the claims at issue.**
- 3. Resolving the level of ordinary skill in the pertinent art.**
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.**

7. Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue.

Inoue discloses the invention substantially as claimed. Inoue teaches a method of cold compacting a polyethylene resin with an oxide. The reference teaches cold compacting a resin and an inorganic acid scavenger. The inorganic acid scavenger is a metal oxide or silicate in Inoue the metal oxide acid scavenger is ferric or ferrous oxide. [See Column 2, line 19, 26 and 44; Column 5, line 51; note Claim 16]

However, Inoue does not teach the specifics of the polyethylene such as the molecular weight of the polyethylene, nor the range of pressure used in cold compacting the resin and inorganic acid scavenger.

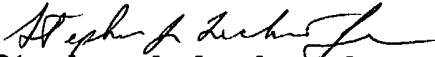
Inoue teaches making a cold compact of polyethylene resin with a metal oxide such as ferric or ferrous oxide or silicate. The method includes cold compaction. The prior recognizes what is meant by cold compaction of a polymer and inorganic filler. To use a specific molecular weight polyethylene polymer where polyethylene has been taught would have been obvious to one having ordinary skill in the art because Inoue teaches using a polyethylene polymer there was not teaching that molecular weight would be crucial in cold compacting nor has applicant taught the criticality in molecular weight and thus, a broad teaching of cold compacting polyethylene would teach or suggest to the ordinary artisan that any molecular weight polyethylene would be applicable and operable in the method of Inoue as claimed absent criticality in showing. With respect to the pressure range of compacting, Inoue teaches cold compaction of a polyethylene resin

and inorganic filler and does provide a composite, by definition of cold compacting, a pressure and temperature to provide a compact is known and used by the artisan and to use a pressure which provides a compact such as taught by applicant would be within the purview of the ordinary artisan and thus would have been obvious to one having ordinary skill in the art absent criticality in showing thus rendering applicant's invention as a whole obvious.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Lechert Jr. whose telephone number is 571-272-1203. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Lechert Jr.
Primary Examiner
Art Unit 1732
